LAW OFFICES OF ALLEN A. KOLBER, ESQ.
Attorneys for Debtors
134 Rt. 59, Suite A
Suffern, NY 10901
(845) 918-1277
Allen A. Kolber, Esq. (AK0243)

Hearing Date: March 8, 2017
Hearing Time: 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
______________________________________x
In Re:

CHAYA SHEINER,

Debtor.
______________________________________x

Chapter 13

Case No. 16-23271(rdd)

NOTICE OF MOTION FOR AN ORDER PURSUANT TO 11 U.S.C. §§506(a) AND 506(d) DETERMINING THE AMOUNT OF SECURED CLAIM # 2 OF NATIONSTAR MORTGAGE LLC WITH RESPECT TO MORTGAGE ON INVESTMENT PROPERTY AND OBJECTING TO CLAIMS PURSUANT TO 11 U.S.C. § 502(a)(1) AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 3007

S I R S:

PLEASE TAKE NOTICE that the upon the annexed Affidavit of Debtor CHAYA SHEINER, and his attorney, Allen A. Kolber, Esq., and all Exhibits therein, seeking the entry of an Order pursuant to 11 U.S.C. §§ 506(a), 506(d) and 502 (a)(1). and Federal Rule of Bankruptcy Procedure 3007, a hearing will be held on **March 8, 2017, at 10:00 a.m.** before the Honorable D. Drain, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601, as follows:

(a) Valuing the secured lien held by Nationstar Mortgage LLC against the Debtor's real property at $73,000, and
(b) Reclassifying the unsecured claim #2 of Nationstar Mortgage LLC at $294,473.20, and
(c) For such other and further relief as to this Court may seem just and proper.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief Debtor seeks to obtain must be in writing, conform to the requirements of the Bankruptcy code, the Bankruptcy Rules and the Local Rules of the United States Bankruptcy Court for the Southern District of New York, and must be filed and served no later than three (3) business days prior to the hearing date ("Objection Deadline").

PLEASE TAKE FURTHER NOTICE that pursuant to General Order M-182, any objection filed by parties with representation shall be filed on or before the objection Deadline (i) through the Bankruptcy Court's Electronic Filing System which may be accessed at the Bankruptcy Court's internet web at http://www.nysb.uscourts.gov, and (ii) in portable document format (PDF) using Adobe Exchange Software for conversion.

PLEASE TAKE FURTHER NOTICE that any party that is either without legal representation, or that is unable to file documents electronically or create documents in PDF format, shall file its objection on or before the objection Deadline in either Word, WordPerfect or DOS text (ASCII) format on 3-1/2" floppy diskette in an envelope clearly marked with the case name, case number, type and title of document, document number of the document to which the objection refers and the file name of the documents.

PLEASE TAKE FURTHER NOTICE that a "hard copy" of any objections must be hand delivered to the Chambers of the Honorable, at the United States Bankruptcy Court, 300 Quarropas Street, White Plains, New York 10601 on or before the Objection Deadline.

PLEASE TAKE FURTHER NOTICE that objections, if any, must be served in accordance with the provisions of General Order M-182 so that they are received on or before the Objection Deadline by The Law Offices of Allen A. Kolber, Esq., 134 Rt. 59, Suite A, Suffern, NY 10901

Dated: Rockland County, New York
December 12, 2016

/s/ *Allen A. Kolber*

ALLEN A. KOLBER, ESQ.
Attorney for Debtor CHAYA SHEINER
134 Route 59, Suite A
Suffern, NY 10901
(845) 918-1277

TO: Jeffrey L. Sapir, Esq.
Chapter 13 Trustee
399 Knollwood Road, Suite 102
White Plains, NY 10603

United States Trustee
U.S. Federal Office Building
201 Varick Street, Room 1006
New York, NY 10014

Katherine Heidbrink, Esq.
Shapiro, DiCaro & Barak, LLC
Attorneys for Nationstar Mortgage LLC
One Huntington Quadrangle, Suite 3N05
Melville, NY 11747

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
______________________________________x

Hearing Date: March 8, 2017
Hearing Time: 10:00 a.m.

In Re:

CHAYA SHEINER ,

Debtor.
______________________________________x

Chapter 13

Case No. 16-23271(rdd)

TO THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE:

DEBTOR'S APPLICATION FOR AN ORDER PURSUANT TO 11 U.S.C. § 506(a) AND 506(d) DETERMINING THE AMOUNT OF SECURED CLAIM IN RESPECT OF MORTGAGE INVESTMENT PROPERTY AND OBJECTING TO CLAIMS PURSUANT TO 11 U.S.C. § 502(a)(1) AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 3007

Debtor CHAYA SHEINER, by his attorney of record, Allen A. Kolber, Esq., and in support of her Motion to determine the secured status of a mortgage loan on Debtor's Investment Property, states as follows:

Factual Allegation:

1. The Debtor filed a Petition for relief under Chapter 13 of the United States Bankruptcy Code on September 20, 2016.
2. The Debtor is the owner of and resides in certain real property located at 4 Jacaruso Road, Spring Valley, NY ("the Property"), and maintains this property as Debtor's principle residence.
3. In addition, the Debtor owns a multi-family house located at 43 Commerce Street, Spring Valley, NY 10977 (the "Investment Property"). A copy of the Deed is annexed hereto as Exhibit "A".
4. The subject of this Motion is the Nationstar Mortgage LLC ("Nationstar") mortgage that encumbers this property. Since the filing of the Bankruptcy Petition, the Debtor has continued in the management and supervision of the Investment Property.

5. The Debtor's goal is to preserve both his home and Investment Property and pay creditors in full or in part with the rents generated and income from her employment.

Appraisal of Residential Real Estate:

6. On or about November 8, 2016, Apex Appraisal Group, a New York State Certified General Appraiser, performed an appraisal of the Investment Property and determined it to have a fair market value of $73,000. Annexed hereto as Exhibit "B" is a copy of said Appraisal.

7. **Based on the foregoing Appraisal, Debtor submits that the fair market value of the Investment Property is $73,000.**

Mortgage on the Investment Property:

8. At the time of the filing of the Petition herein, said property was encumbered by a mortgage in favor of Nationstar Mortgage LLC ("Nationstar") loan number xxxx1524 with an alleged principal balance of $367,473.20 as of the date of the filing of the Bankruptcy Petition. (Attached hereto as Exhibit "C is a Proof of Claim dated November 22, 2016 from Nationstar reflecting a principal balance due of $367,473.20 on said mortgage).

9. **The principal balance of the Nationstar mortgage exceeds the value of the Investment Property by $294,473.20.**

The Mortgage held by Nationstar Mortgage LLC should be bifurcated into a secured claim of $73,000 and an unsecured claim of $294,473.20

10. Section 506(a) of the United States Bankruptcy Code provides, in pertinent part:

> "(a) An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim . . . . Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest. " 11 U.S.C. § 506(a).

11. Section 506(d) of the United States Bankruptcy Code provides, in pertinent part:

> "(d) To the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void . . ."

12. In the instant case, the secured claim #2 filed by Nationstar relating to the Investment Property should be bifurcated into a secured claim and lien of $73,000 and an unsecured claim of $294,473.20 (*see* 11 U.S.C. § 506(a) and *In re Thompson*, 352 F.3d 419 (2d Cir. 2003).

13. The facts and circumstances set forth herein do not present novel issues of fact or law and Debtor respectfully requests the Court to waive the requirement of filing a Memorandum of Law.

WHEREFORE, it is respectfully requested that Debtor's relief be granted in full and for such other and further relief that this Court may deem just and proper.

Dated: Rockland County, New York
December 12, 2016

LAW OFFICES OF ALLEN A. KOLBER, ESQ.

By: _/s/ *Allen A. Kolber*_______________________
Allen A. Kolber (AK0243)
Attorneys for Debtor CHAYA SHEINER
134 Rt. 59, Suite A
Suffern, NY 10901
(845) 918-1277

TO: Jeffrey L. Sapir, Esq.
Chapter 13 Trustee
399 Knollwood Road, Suite 102
White Plains, NY 10603

United States Trustee
U.S. Federal Office Building
201 Varick Street, Room 1006
New York, NY 10014

Katherine Heidbrink, Esq.
Shapiro, DiCaro & Barak, LLC
Attorneys for Nationstar Mortgage LLC
One Huntington Quadrangle, Suite 3N05
Melville, NY 11747

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
x

In Re: **Chapter 13**

CHAYA SHEINER , **Case No. 16-23271(rdd)**

Debtor.
x

TO THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE:

APPLICATION OF DEBTOR CHAYA SHEINER

CHAYA SHEINER, being duly affirmed, deposes and states under the penalties of perjury:

1. On September 20, 2016, I filed a Voluntary Chapter 13 Petition.
2. I reside at, and am the owner of certain real property located at 4 Jacaruso Road, Spring Valley, NY 10977.
3. In addition, I own a house located at 43 Commerce Street, Spring Valley, NY 10977 (the "Investment Property"). A copy of the Deed is annexed hereto as Exhibit "A".
4. On or about November 8, 2016, I retained the services of Apex Appraisal Group, a New York State Certified General Appraiser, which performed an appraisal for said Investment Property and determined it to have a fair market value of $73,000. Annexed hereto as Exhibit "B" is a copy of said Appraisal.
5. At the time of the filing of my Bankruptcy Petition, said property was encumbered by a mortgage in favor of Nationstar Mortgage LLC ("Nationstar") loan number xxxx1524 with an alleged principal balance of $367,473.20 as of the date of the filing of the Bankruptcy Petition. (Attached hereto as Exhibit "C is a Proof of Claim dated November 22, 2016 from Nationstar reflecting a principal balance due of $367,473.20 on said mortgage).

WHEREFORE, I respectfully request that the Court grant my Motion to bifurcate Claim #2 of Nationstar into a secured claim and lien of $73,000 and an unsecured claim of $294,473.20, and for such other and further relief as to this Court may seem just and proper.

Dated: Rockland County, New York
December 12, 2016

/s/ *CHAYA SHEINER*
CHAYA SHEINER

Affirmed before me this
December 12, 2016

/s/ Allen A. Kolber,
Allen A. Kolber
NOTARY PUBLIC, State of New York
No. 02K04972647
Qualified in Queens County
Commission Expires October 1, 2018

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
_______________________________________x

In Re:	**Chapter 13**
CHAYA SHEINER,	**Case No. 16-23271(rdd)**
Debtor.	

_______________________________________x

ORDER DETERMING AMOUNT OF SECURED CLAIM OF NATIONSTAR MORTGAGE LLC PURSUANT TO 11 U.S.C. §§ 506(a) AND (506(d) AND FED.R.BANKR.P. 3007 AND RECLASSIFYING THE CLAIM OF NATIONSTAR MORTGAGE LLC

CHAYA SHEINER (the "Debtor"), by her attorney, Allen A. Kolber, Esq., having served and filed a Motion dated December 12, 2016 in support of an Application to determine the secured status of and to reclassify the lien of Nationstar Mortgage LLC, ("Nationstar"), Mortgage Loan No. xxxx1524 on Debtor's Investment Property located at 43 Commerce Street, Spring Valley, NY 10977 ("Investment Property"), and there being due and sufficient notice of the Motion and the hearing thereon; and upon the record of the hearing on the Motion; and there being no opposition to the Motion; and after due deliberation it appearing that the value of the Investment Property is $73,000 and that there is $73,000 of collateral securing the mortgage held by Nationstar, and due and sufficient cause appearing, it is hereby

ORDERED, that the Motion is granted and further;

ORDERED that the secured claim #2 filed by Nationstar relating to the Investment Property should be bifurcated into a secured claim and lien of $73,000 and an unsecured claim of $294,473.20 (*see* 11 U.S.C. § 506(a) and *In re Thompson*, 352 F.3d 419 (2d Cir. 2003). If any amendment to such claim is filed that increases the amount of such claim, any such increase shall also be treated as an unsecured claim.

Dated: White Plains, New York
_____________________, 2017

____
HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss:
COUNTY OF ROCKLAND)

SYLVIA BERKOWITZ, being duly affirmed, deposes and says:

I am not a party to the within action; I am over 18 years of age; I reside in Rockland County, New York.

On December 12, 2016, I served the within **Notice of Motion to Determine the Secured Status of and to Reclassify the Lien of Nationstar Mortgage LLC, Attorney's Affirmation and Debtor's Application via ECF Filing** upon:

Jeffrey L. Sapir, Esq.
Chapter 13 Trustee
399 Knollwood Road, Suite 102
White Plains, NY 10603

United States Trustee
U.S. Federal Office Building
201 Varick Street, Room 1006
New York, NY 10014

Katherine Heidbrink, Esq.
Shapiro, DiCaro & Barak, LLC
Attorneys for Nationstar Mortgage LLC
One Huntington Quadrangle, Suite 3N05
Melville, NY 11747

/s/*Sylvia Berkowitz*
SYLVIA BERKOWITZ

Affirmed before me this
December 12, 2016

/s/ Allen A. Kolber,
Allen A. Kolber
NOTARY PUBLIC, State of New York
No. 02K04972647
Qualified in Queens County
Commission Expires October 1, 2018